

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**AKERSON ADVERTISING & MARKETING,  
INC. and GEORGE E. AKERSON,**

**Plaintiffs,**

**v.**

**1:13-CV-43  
(FJS/CFH)**

**ST. JOHN & PARTNERS ADVERTISING  
AND PUBLIC RELATIONS, INC.,**

**Defendant.**

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**APPEARANCES**

**OF COUNSEL**

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ASSOCIATES, P.C.**  
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**TIMOTHY W. VOLPE, ESQ.  
CAROLINE MEEK PRIETO, ESQ.**

**SCULLIN, Senior Judge**

**ORDER**

On August 2, 2013, the Court heard oral argument in support of, and in opposition to, Defendant's motion to dismiss Plaintiffs' complaint and Plaintiffs' cross-motion for leave to amend their complaint. At the conclusion of the argument, the Court denied both motions

without prejudice and with leave to renew and advised the parties that it would issue a written decision regarding the same.

Accordingly, for the reasons stated at oral argument, the Court hereby

**ORDERS** that Defendant's motion to dismiss Plaintiffs' complaint and Plaintiffs' cross-motion for leave to amend their complaint are **DENIED without prejudice and with leave to renew**; and the Court further

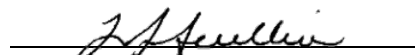
**ORDERS** that, within **twenty (20) days** of the date of this Order, Plaintiffs may file an amended complaint. As the Court noted at oral argument, in any such amended complaint that Plaintiffs file, they may **not** replead their fraud claim; and the Court further

**ORDERS** that, if Plaintiffs do **not** file an amended complaint within twenty (20) days of the date of this Order, Defendant may, if it wishes, renew its motion to dismiss Plaintiffs' original complaint **within forty (40) days** of the date of this Order; and the Court further

**ORDERS** that, if Plaintiffs file an amended complaint within twenty (20) days of the date of this Order, Defendant must file its response, i.e., either its answer or an appropriate motion, within the time frames set forth in Rule 12 of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED.**

Date: August 5, 2013  
Syracuse, New York

  
Frederick J. Scullin, Jr.  
Senior U.S. District Judge